

Fax-on-Demand
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Item: 6081

**JUSTIFICATION STATEMENT FOR
AN INFORMATION COLLECTION REQUEST (ICR)**

1. IDENTIFICATION OF THE INFORMATION COLLECTION

(a). TITLE: Certification of Pesticide Applicators (40 CFR Part 171)

OMB NO.: 2070-0029

EPA NO.: 0155.07

(b). Short characterization

This is a request to **renew** an existing information collection request (ICR) currently approved by the Office of Management and Budget (OMB) and scheduled to expire on September 30, 2000. The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) allows the Environmental Protection Agency (EPA) to classify a pesticide as "restricted use" if the pesticide meets certain toxicity or risk criteria. Restricted use pesticides, because of their potential to harm persons or the environment, may be applied only by a certified applicator or someone under the direct supervision of a certified applicator. In order to become a certified applicator, a person must meet certain standards of competency. Once approved by EPA, participating States can implement a certified applicator program. In non-participating States, EPA administers certification programs.

2. NEED FOR AND USE OF THE COLLECTION

(a) Need/Authority for the Collection

Section 3 (d) of FIFRA authorizes EPA to classify registered pesticides as either general-use pesticides or restricted use pesticides (see attachment A). Restricted use pesticides (RUP's) are pesticides that, absent additional regulatory restrictions, may cause unreasonable adverse effects on people or the environment. Those pesticides placed in the restricted use category may be used only by or under the direct supervision of a certified applicator -- that is, an applicator with specific training in the safe handling and application of these more hazardous RUP's who has received license (certification) to that effect. Section 11(a) of FIFRA grants EPA the with authority to prescribe standards for the certification of applicators of pesticides (see attachment B). Section 11(a)(2) of FIFRA establishes a state certification program that allows states to implement an applicator certification after a state program has been approved by EPA. While the bulk of the certification program is implemented through the States, in non-participating States, EPA has

authority to directly administer certification programs. The regulations for the certification program in 40 CFR Part 171, attachment C, also include procedures for certification programs for Federal agencies or Indian tribes who wish to develop their own programs in lieu of using State certification programs.

The authority for this information collection activity is provided under section 3(d) of FIFRA and section 11 of FIFRA and 40 CFR Part 171.

(b) Use/Users of Data

EPA requires: 1) maintenance of commercial applicator records, 2) submission of annual reports from States, Indian tribes, and Federal Agencies with EPA-approved certification plans, 3) an application form to be completed by those seeking to be certified in EPA-administered programs (Colorado), and 4) maintenance of pesticide dealer records of the sale of restricted use pesticides in States with EPA-administered programs (Colorado).

EPA monitors these records to assure that restricted use pesticides are used only by or under the direction of properly trained and certified applicators and to ensure that pesticide labeling requirements are adhered to by requiring applicators to record the application (amounts, locations and dates) of restricted use pesticides. Without these records it would often be difficult to successfully enforce against misuse and ensure proper training and supervision of uncertified applicators. The reports are also used as a monitoring tool to develop overall data on pesticide activities for OMB, Congress, and others, to distribute EPA grant funds to participating states and Indian tribes, to target enforcement activities, and to revise certification and training program emphasis and requirements.

An application form (see attachment D) is used to obtain vital information from applicants such as name and address, and to schedule applicators for certification or re-certification. The dealer records are necessary for EPA to ensure that access to restricted use pesticides is limited to certified applicators, or those under their supervision. State administered certification programs use State authority to require dealers to maintain records of restricted use pesticide sales.

3. THE RESPONDENTS AND THE INFORMATION COLLECTED

(a) Respondents/SIC Codes

The Standard Industrial Classification (SIC) codes and the North American Industrial Classification System (NAICS) code for respondents participating in this data collection program activity are noted below.

SIC/NAICS

Farms:

010/0191 Agriculture production crops
020/0291 Agriculture production animals

Commercial Services:

734/561710 Exterminating Services

State/Tribal Lead Agencies Administering Certification Programs and monitoring dealer sales of RUPs:

951/924110 Administration of environmental quality programs
964 Administration of general economic programs

Pesticide Dealers (currently required only for EPA-administered programs which exist only in Colorado):

526/111421 Retail Nurseries, Lawn and Garden Supply Stores
 /444220
519/4229 Miscellaneous nondurable goods (dealers)

(b) Information Requested

i. Data items

A. Commercial Applicator Records

Commercial applicators must generate records on the kinds, amounts, uses, dates and places of restricted use pesticide applications immediately after the termination of the pesticide application. The records are required to be maintained for two years. These records are not required to be submitted to EPA or the State, but they must be made available for State or EPA officials upon request. Records collected may become a part of an enforcement action or investigation.

B. Annual Reports

Annual reports from States, Indian tribes and Federal agencies with EPA-approved certification plans. The States, Indian tribes and Federal agencies with approved certification plans are required annually to develop and submit to EPA a report as outlined in the regulations. The annual report will provide information on State, Indian tribe and Federal agency program activities, such as the number of applicators certified and any significant changes to their certification plans.

C. Application for certification in EPA-administered programs

EPA presently certifies private applicators in Colorado. The regulations require that an application form be completed by those seeking to be certified or re-certified in EPA administered programs. Without an application form, it would be difficult for EPA to schedule applicators for certification and recertification and to obtain and record vital information, such as, name and address. The regulations do not require States with approved certification programs to use the application form adopted by EPA. States, however, use similar application forms developed to meet their specific needs. A copy of EPA's application form requesting certification is attached.

D. Dealer recordkeeping in EPA-administered programs (Colorado)

The regulations require dealers in States with EPA-administered Programs to keep records of the sale of restricted use pesticides for 24 months. While the dealer records are maintained at the dealership and are not routinely submitted to EPA, they may be collected as part of an enforcement action or investigation. This is necessary for EPA to ensure that access to restricted use pesticides is limited to certified applicators, or those under their control. Without the ability to limit access to restricted use pesticides, there would be little purpose in certifying applicators or classifying pesticides for restricted use. This provision is solely intended to provide EPA with the authority to impose dealer recordkeeping in States with EPA-administered programs. State - administered certification programs must use State authority to require dealers to maintain records of restricted use pesticide sales.

ii. State, Indian Tribe and Federal Agency Respondent Activities.

A typical respondent will perform the following activities:

Read rules or other instructions	Reading applicable regulations, 40 CFR 171, grant requirements, and other applicable requirements.
Receive training	Administered by EPA approved program or EPA.
Plan activities	Plan activities to collect and compile data. This includes developing a system to enter data, scheduling the work to be done, making assignments to perform the work, and developing a system to assure quality control.
Create information	Document work

Gather information	The actual collection of records maintained throughout the year that are needed to develop the annual report.
Review	Review information for accuracy.
Complete written forms or other instruments	The extract data from records and compile the data into the required report format.
Record, disclose, display or report the information	Compile annual report and submit. Record maintenance for preparation of the next annual report, such as grant reports and hard copy and computer records of data required in the annual report.
Store, file, or maintain information.	Store and retain records.

4. THE INFORMATION COLLECTED - AGENCY ACTIVITIES, COLLECTION METHODOLOGY, AND INFORMATION MANAGEMENT

(a) Agency Activities

In continuing this collection EPA will:

Answer respondent questions	answer respondent questions
Review data	review the data submissions
Record data	record the submissions
Maintain data	develop/maintain a master database for the data submissions
Analyze data	analyze requests for confidentiality and provide appropriate protection
Reformat data	reformat and distribute the data
Store Data	store the data

(b) Collection Methodology and Management

The commercial applicator and dealer records are not routinely collected. Annual reports

from EPA-approved certification programs are required. The Agency allows respondents to utilize their end-of-year grant reports to fulfill the annual report requirement under this program to the extent that information contained in such grant reports satisfies Part 171 requirements. Certain minor reporting elements which may be outside the scope of the grant reports may be provided in whatever fashion the respondent finds most convenient and least burdensome. In the past, this information was often provided a part of the grant reports which were primarily submitted to, and managed by, the Office of Enforcement and Compliance Assistance (OECA) and are cleared under OMB Control #2070-0113. However, OECA has discontinued that program. The information required under this program was generally included in the grants report as a 2-3 page addendum to that report.

The applicator certification form is used as an initial reference point for potential certified applicators in EPA administered programs. The form has been used for several years and it requires only basic information, such as name and address. For EPA-administered programs the respective Regions compile and maintain data on program operations. The public may access the data by contacting the appropriate EPA Regions.

(c) Small Entity

These regulations specifically apply to individuals who are certified applicators. EPA believes that the records required of pesticide applicators and their employees are minimal and would generally be kept for the applicators' own use even in the absence of this regulation. In Colorado, where EPA administers the certification program, dealers are also required to keep records. EPA does not require the submission of dealer records, but rather requires that the dealer furnish records for inspection and copying upon request.

(d) Collection Schedule

Not applicable.

5. Nonduplication, Consultations, and Other Collection Criteria

(a) Nonduplication

EPA is the only Federal agency certifying applicators of restricted use pesticides. However, the US Department of Agriculture (USDA) does have regulations which impact certified applicators. In addition to providing most of the training for certified applicators under an Interagency Agreement (IAG) with EPA, USDA also has regulations which require both private and commercial applicators to maintain detailed records regarding the application of restricted use pesticides. The records required by USDA under 7 CRF 110, which are much more detailed than those required by EPA under 40 CFR 171, apply to both private and commercial applicators. FIFRA prohibits EPA from regulating private applicators to keep records or make reports, so there

is no duplication with regard to private applicators. In addition, although both USDA and EPA appear to impose recordkeeping requirements on commercial applicators, EPA's requirements are only a subset of USDA's and consist mostly of information that is already maintained by commercial applicators as part of their ordinary and customary business practices. As such there is no contradiction or practical duplication.

To prevent duplication and State facilitate reporting, EPA permits States to use other reports in lieu of the separate annual reports, and States may amend the State plan with an addendum.

(b) Consultations

The regulations under 40 Code of Federal Regulations, Part 171 (40 CFR 171) were published in the **Federal Register** in 1974, 1975 and 1978 with minor modifications in 1983 and 1984. All sections of the regulations provided a comment period for interested parties prior to promulgation. The comments received were evaluated by the Agency prior to issuance of the final rule. Continuous consultation and/or dialogue between industry and the Agency occurs on an informal, on-going, "as needed" basis, primarily during the submission and review of reports. The certified applicator base has become stable over the years.

(c) Effects of Less Frequent Collection

Only annual reports from participating States are submitted to EPA on a routine basis. Annually is considered a minimal reporting period. As described earlier, most annual reporting information required under the regulation is contained in the annual grant report, and can be submitted as a joint package. Budget requests and the distribution of cooperative agreement funds are done on an annual basis. The annual report data is used to support budget requests and to apportion cooperative agreement funds. Less frequent collection of information would not allow the Agency to distribute these funds in the most equitable manner, as data demonstrating need would not be correct.

(d) General Guidelines

This information collection activity does not exceed any of the Paperwork Reduction Act guidelines contained at 50 CFR 1320.6.

(e) Confidentiality and Sensitive Questions

i. Confidentiality

The activities or records proposed in this regulation will not involve any confidentiality concerns or information.

ii. Sensitive Questions

The activities proposed in this regulation will not involve any sensitive questions.

6. ESTIMATING THE BURDEN AND COST OF COLLECTION

(a) Estimating Respondent Burden

In estimating the average respondent burden related to the information collection components of the Agency's certification program, the Agency based the burden hour estimates on the Office of Pesticide Program's extensive experience and knowledge of the Certification and training Program, Regional contacts and budget staffing records of the Regional offices, and information obtained from USDA, State Agencies, and other resources. For labor rates and associated costs, we relied on the Comprehensive Assessment and Information Rule (CAIR)¹ economic analysis, and estimated hourly labor rates indexed to 1998 dollars based on the US Department of Labor, Producer Price Index as follows: management @ \$61; technical @ \$42; clerical @ \$19.

The total annual burden for **States** to report is estimated to be 4,468.8 hours, with an average burden of 78.4 hours for each of the 57 participating States, Federal Agencies and Indian Tribes (collectively referred to as States). The average per State burden is based on several estimates that were provided to EPA by participating States. Using the hourly rates mentioned above, the estimated average cost is \$2,251.40 per participating State, with the total cost estimated for this requirement estimated to be \$128, 329.80.

The total annual burden for **certifying applicators** where EPA implements part of the certification program in Colorado, is estimated to be 8.16 hours, with an average burden estimate of .17 hours per respondent. Since the Federal Program is actually managed by Agency personnel, this burden estimate is based on the experience of the personnel running the programs in EPA's Regions 7 and 8. Using the hourly labor rates mentioned above, the estimated average cost is \$2.63 per respondent, with the total cost estimated to be \$126.24 for this requirement.

The total annual burden and cost for the record keeping component for **Pesticide Dealers' record keeping in Colorado**, which is the State run portion of the certification program for

¹Centaur Associates, Inc., Response Times and Labor Costs Final Data Element List Comprehensive Assessment Information Rule, prepared for the US Environmental Protection Agency under contract No.68-02-3980, Washington, DC, April 30 1985, pp. 94-106.

Colorado, is estimated to be an annual burden of 1,330 hours and a cost of \$20,748. The average per respondent burden is 5 hours at a cost of \$78.00. These estimates were derived from contracts within the State of Colorado, in conjunction with discussions with the EPA Regional office personnel that run the other half of the program in Colorado.

Commercial Applicators and Firms are also subject to certain recordkeeping requirements, the information that EPA requires to maintain them under 40 CFR 171. Specifically, EPA requires commercial applicators to maintain the following information specified in §171.11(c)(7)(i)(A)-(H): the name and address of the person for whom the pesticide was applied,; the location of the application, the target pest(s); the specific crop or commodity, as appropriate, and the site to which the pesticide was applied; the year, month, day , and time of application; the name and EPA registration number of the pesticide applied; the amount applied and the percentage active ingredient per unit of pesticide used; and the type and amount of the left over pesticide disposed of, the method and location of disposal. This ICR proposal estimates that 412,922 commercial applicators will be subject to this burden. The average per respondent burden is 3.1 hours at a cost of \$48.36. The number of respondents in this category has increased from 330,000 to 412, 999, a difference of 82, 922.

The following tables illustrate the estimated burden and costs associated with the information collection activities of this Program:

Table 1. Annual Respondent Cost/Burden Estimates for State Annual Reports on Certification and Training Programs

COLLECTION ACTIVITIES	BURDEN HOURS (per year)				
	Mgmt. \$61/hr	Tech. \$42/hr	Cler. \$19/hr	Hours	Costs

1) Read /hear rule or any collective instrument instruction (including compliance determination)	0	0.25	0	0.25	\$10.50
2) Receive training	1	0	0	1	\$61.00
3) Plan activities	0	0	0	0	\$0.00
4) Create information	0	5	0	5	\$210.00
5) Gather information	0	5	0	5	\$210.00
6) Process, compile, review information for accuracy	0	1	0	1	\$42.00
7) Complete written forms or other instruments	0	0.5	0.5	1	\$21.00
8) Record, disclose, display or report the information	0	20	45	65	\$1,695.00
9) Store, file, or maintain information	0	0	0.1	0.1	\$1.90
TOTAL	1	31.8	45.6	78.4	\$2,251.40

ANNUAL BURDEN: Hr. Total (78.4) x No. of Respondents (57) = 4,468.80

ANNUAL COST: Cost total (\$2,251.40) x No. of Respondents (57) = \$128,329.80

Table 2. Annual Respondent Burden Estimates for Certified Applicators in Federal Programs (Colorado) for Completion of EPA Certification Forms

	BURDEN HOURS (per year)				
COLLECTION ACTIVITIES	Mgmt. \$0/hr	Tech. \$15.60/hr	Cler. \$0/hr	Hours	Costs

1) Read /hear rule or any collective instrument instruction (including compliance determination)	0	0.07	0	0.07	1.092
2) Receive training	0	0	0	0	0
3) Plan activities	0	0	0	0	0
4) Create information	0	0	0	0	0
5) Gather information	0	0	0	0	0
6) Process, compile, review information for accuracy	0	0	0	0	0
7) Complete written forms or other instruments	0	0.1	0	0	1.56
8) Record, disclose, display or report the information	0	0	0	0	0
9) Store, file, or maintain information	0	0	0	0	0
TOTAL	0	0.17	0	0	2.63

ANNUAL BURDEN: Hr. Total (0.17) x No. of Respondents (48) = 8.16

ANNUAL COST: Cost total (\$2.63) x No. of Respondents (48) = \$126.24

The cost of \$15.60 was based on figures given by owners of small retail stores. (\$10/hour plus 10% overhead plus 15% benefits indexed to 1998 dollars.) The burden hour estimates were derived from knowledge of the Certification and Training Program. This program is run out of EPA Region 8, thus staffing requirements are well known.

Table 3. Annual Respondent Cost/Burden Estimates for Pesticide Dealers for Recordkeeping Requirements for Restricted Use Pesticide Certification (Colorado)

	BURDEN HOURS (per year)				
COLLECTION ACTIVITIES	Mgmt. \$0/hr	Tech. \$15.60/hr	Cler. \$0/hr	Hours	Costs

1) Read /hear rule or any collective instrument instruction (including compliance determination)	0	0.5	0	0.5	7.80
2) Receive training	0	0	0	0	0
3) Plan activities	0	0	0	0	0
4) Create information	0	0	0	0	0
5) Gather information	0	0	0	0	0
6) Process, compile, review information for accuracy	0	1	0	1	15.60
7) Complete written forms or other instruments	0	2.5	0	2.50	39.00
8) Record, disclose, display or report the information	0	0.5	0	0.5	7.80
9) Store, file, or maintain information	0	0.5	0	0.5	7.80
TOTAL	0	5	0	5	78

ANNUAL BURDEN: Hr. Total (5) x No. of Respondents (266) = 1,330

ANNUAL COST: Cost total (\$78) x No. of Respondents (266) = \$20,748

The cost of \$15.60 was based on figures given by owners of small retail stores. (\$10/hour plus 10% overhead plus 15% benefits indexed to 1998 dollars). The burden hour estimates were derived from contacts with States and Regional offices and also from our knowledge of the program and the forms to be filled out and filed.

Table 4. Annual Respondent Burden Estimates for Commercial Applicators and Firms for all Recordkeeping Required to Establish, Update, and Maintain their Records

COLLECTION ACTIVITIES	BURDEN HOURS (per year)				
	Mgmt. \$0/hr	Tech. \$15.60/hr	Cler. \$0/hr	Hours	Costs
1) Read /hear rule or any collective instrument instruction (including compliance determination)	0	0.2	0	0.2	3.12
2) Receive training	0	0	0	0	0
3) Plan activities	0	0	0	0	0
4) Create information	0	2	0	2	31.20
5) Gather information	0	0	0	0	0
6) Process, compile, review information for accuracy	0	0	0	0	0
7) Complete written forms or other instruments	0	0	0	0	0
8) Record, disclose, display or report the information	0	0	0	0	0
9) Store, file, or maintain information	0	0.9	0	0.9	14.04
TOTAL	0	3.1	0	3.1	48.36

ANNUAL BURDEN: Hr. Total (3.1) x No. of Respondents (412,922) = 1,280,058.20

ANNUAL COST: Cost total (\$48.36) x No. of Respondents (412,922) = \$19,968,907.92

The cost of \$15.60 was based on figures given by owners of small retail stores. (\$10/hour plus 10% overhead plus 15% benefits indexed to 1998 dollars). The burden hour estimates were based on knowledge of the program and operational experience.

(c) Annual Agency Burden/Cost Estimates

Table 5. Annual Agency Burden/Cost Estimates

COLLECTION ACTIVITIES	BURDEN HOURS (per year)				
	Mgmt. \$38hr	Tech. \$27hr	Cler. \$15/hr	Hours	Costs
1) Develop rule, questionnaire, or other collection instrument	0	9000	0	9000	\$243,000.00
2) Develop master database	0	10,000	0	10,000	\$270,000.00
3) Answer respondent Questions	0	7,500	0	7,500	\$202,500.00
4) Audit/Review Submissions	0	7,500	0	7,500	\$202,500.00
5) Record/enter submissions	0	1,000	1,500	2,500	\$49,500.00
6) Analyze requests for confidentiality and provide appropriate protection	1,000	5,000	0	6,000	\$173,000.00
7) Reformat and distribute the data	0	1,500	1,000	2,500	\$55,500.00
8)Store, file, or maintain information	0	0	5,000	5,000	\$75,000.00
TOTAL	1,000	41,500	7,500	50,000	\$1,271,000.00

Burden hour estimates were based on 24 FTE's per year and 2080 hours per FTE. (24 FTE's = 1.5 FTE's per region + 4 FTE's for Colorado + 5 FTE's at headquarters). The salaries used for management, technical and clerical were GS 13 Step 8, GS 12 Step 2, and GS 6 Step 4, respectively. These salaries and burden hours are based on our knowledge of the program and its staffing requirements and indexed to 1998 dollars using a multiplier of 1.247 as published by the US Department of Labor Statistics.

(d) Bottom Line Burden Hours and Costs/Master Tables

(i) Total Respondent Burden Hours:

State annual reports - [total hours (78.4) x No. of respondents (57)] + [Colorado (0.17) x No. of respondents (48)] + [Pesticide dealers (5) x No. of Respondents (266)] + [Recordkeeping (3.1) x No. of respondents (412,922)] = 1,285,865.16 hours.

(iii) Total Respondent Cost:

[State annual reports (\$2,251.40) x No. of respondents (57)] + [Colorado (\$2.63) x No. of Respondents (48)] + [Pesticide dealers (\$78) x No. of Respondents (266) + Applicators and Firms (\$48.36) x No. Respondents (412,922)] = \$20,118,111.96

Table 6. Bottom Line Annual Burden Hours and Costs/Master Tables

	Burden Hours	Cost
Respondent	1,285,865.16	\$20,118,111.96
Agency	50,000	\$1,271,000

(e) Change in Burden

The annual burden hours related to the activities of this ICR have increased from 997,222 hours to 1,285,865.16 hours. The significant increase is attributed to the increase in the number of commercial applicators and firm respondents, an increase of 82,922 respondents. There was no adjustment of burden hours.

(f) Burden Statement

The annual burden for this collection of information is estimated to average per response: 5 hours for pesticide dealer recordkeeping in Colorado, 0.17 hours for certifying applicators in Colorado, 3.1 hours for commercial applicators and firms, and 78.4 hours for each State to submit annual reports.

According to the Paperwork Reduction Act, "burden" means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For this collection, it is the time reading the regulations, planning the necessary data collection activities, conducting tests, analyzing data, generating reports and completing other required paperwork, and storing, filing, and maintaining the data. The agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this information collection appear at the beginning and the end of this document. In addition OMB control numbers for EPA's regulations, after initial display in the final rule, are listed in 40 CFR part 9.

Send comments regarding burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to: Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Include the OMB control number in any correspondence, but do not

May 30, 2000

submit the requested information or forms to this address. The requested information should be submitted in accordance with the instructions in the Federal Register Notice seeking comment on this ICR. Please reference this document by the OMB Control No. 2070-0029 in all correspondence.

ATTACHMENT FOR THE JUSTIFICATION STATEMENT

(The attachment is not included as part of this electronic file. However, the attachment references for FIFRA which can be accessed from the EPA home page at, <http://www.epa.gov/epahome/laws.htm>. The attachment references for 40 CFR part 171 can be accessed at http://www.access.gpo.gov/nara/cfr/waisidx_99/40cfr171_99.html)

Attachment A Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) section 3(d)

Attachment B Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) section 11

Attachment C 40 CFR Part 171

Attachment D EPA Form 8500-17 "Colorado Private Pesticide Applicator Certification Application Form" (Not available as part of the electronic file)